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IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1268

MRS. RUBY EDWARDS BROWN,
Petitioner,

versus

ROSS BARNETT, JR., AND LOWELL B. GANT,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSISSIPPI

R. JESS BROWN
107 Capital Towers Building
Jackson, Mississippi 39205

ATTORNEY FOR PETITIONER

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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1975

No.

MRS. RUBY EDWARDS BROWN,
Petitioner,

versus

ROSS BARNETT, JR., AND LOWELL B. GANT,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSISSIPPI

The petitioner, Mrs. Ruby Edwards Brown, respectfully prays that a writ of certiorari issue to review the decision of The Supreme Court of Mississippi in this proceeding on December 8, 1975, overruling petitioner's motion to reinstate.

OPINION BELOW

No written opinion was rendered by the Mississippi Supreme Court. The final decision in this case appears in Appendix L herein, overruling petitioner's motion to reinstate.

JURISDICTION

The judgment of the Supreme Court of Mississippi, as reflected in Appendix J, dismissing appeal, was entered on 13th day of October 1975. A timely petition for reinstatement was denied on December 8, 1975. See appendix L herein. This petition for certiorari was filed within ninety (90) days of that date. This Court's jurisdiction is invoked under 28 U.S.C. 1257(3)(1970).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION AMEND. VII

> "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

U.S. CONSTITUTION AMEND. XIV

> "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

11-51-5 MISSISSIPPI CODE 1972 ANNOTATED

"Time for appeals to the Supreme Court"

"Appeals to the Supreme Court shall be taken within ninety (90) days. Next after the rendition of the judgment or decree complained of . . . ."

QUESTIONS PRESENTED

1.

Was Petitioner denied due process of law in that she was arbitrarily and capriciously refused review by the Circuit Court of the First Judicial District of Hinds County, Mississippi, of its arbitrary and capricious decision?

2.

Was Petitioner denied due process of law in that the Mississippi Supreme Court refused to review an arbitrary and capricious decision of the Circuit Court of the First Judicial District of Hinds County, Mississippi?

3.

If Petitioner was denied same did such denials constitute a denial of a determination as to whether petitioner had been denied the right to a trial by jury as guaranteed her under the Seventh (7th) Amendment of the United States Constitution, as well as other Federal and State Guarantees.

STATEMENT OF THE CASE

Petitioner filed her Declaration in the Circuit Court of the First Judicial District of Hinds County, Mississippi on the 10th day of February, 1972. In her Declaration against respondents, Ross Barnett, Jr. and Lowell B. Gant, the petitioner charged the respondents with malicious prosecution and abuse of process. (TR. 2-7)

The respondents filed an answer on the 3rd day of March, 1972, admitting to the allegations of paragraph one and two but denying the rest of the allegations in the Declaration. (TR. 8-9) The respondents also filed a motion to strike which was overruled.

This cause came on for trial on the 21st day of March, 1973, before the Circuit Court of the First Judicial District of Hinds County, Mississippi, the late Honorable M. M. McGowan, presiding, and a jury of twelve men and women duly qualified and empaneled. After the petitioner had rested her case the respondent made a motion for a directed verdict and the same was sustained by the trial court. Immediately thereafter, the petitioner then and there made a motion for a new trial. The trial court accepted petitioner's motion for a new trial and indicated that it would set same for hearing upon a future date which petitioner and respondent could agree upon. (TR. 165)

At the time the trial Court sustained respondents' motion for a directed verdict the Court gave a ruling from the bench, the same which appears in appendix A herein. That upon the 26th day of March, 1973, the trial

Court entered a judgment in this cause, the same which appears in appendix B herein. On March 2 and April 4, 1973, respectively, after the trial and prior to a hearing upon petitioner's motion for a new trial, petitioner filed a motion and an amended motion to set aside the judgment of the trial Court and to conform same pursuant to the ruling rendered by the Court from the bench. Upon April 13, 1973, said motions were heard and overruled, as appear in appendix C. The motion for a new trial was yet pending in that it had not been disposed of when the March term of the trial Court ended on April 13, 1973, nor had it been abandoned. The general docket as appears in appendix D, reveals that upon April 19, 1973, petitioner filed an additional motion for a new trial, setting forth therein specific grounds in support of the original motion.

Upon May 11, 1973, as appears in appendix E, the trial Court heard and entered an order overruling petitioner's motions for a new trial, as without merit. No objections were raised as to the jurisdiction of the trial court to hear these motions.

On May 18, 1973, as appears in appendix D, notice of appeal and copy of notice of appeal and request to transcribe the court reporter's notes were timely filed; and upon May 21, notice of appeal was timely filed along with one copy of same. On October 13, 1975, petitioner's appeal was dismissed, as shown in appendix J. An appeal bond was actually filed on June 25, 1973, as appears in appendix F herein, although the Civil docket reflects that it was not entered until July 2, 1973, as shown in Appendix D.

The Circuit Clerk's office had three separate orders, of which only one was filed. There was one striking the motion for new trial and notice of appeal, deeming each a nullity, as shown in appendix G herein and purported to be the signature of M. M. McGowan, Circuit Judge; one striking same as shown in appendix H herein, and purported to be the signature of M. M. McGowan, Circuit Judge, and one striking same, as shown in appendix I herein, and purported to be the signature of M. M. McGowan with a subsequent order on the same date as shown in appendix H, herein, ordering all pending motions and appeals to be carried over for hearing and decision in vacation, and purported to be the signature of Leon F. Hendrick and Russell W. Moore, Circuit Judges, as shown in appendix H, herein. Appendix I has a notation written upon the bottom of said instrument which states "This order to be entered for Ross Barnett." Appendix H and G do not have such notation. All of these orders appear to have been executed on June 15, 1975. Although there were three separate original orders in the clerk's office, only the order (appendix H) was filed.

Notwithstanding that these orders are in the office of the Circuit Clerk, Petitioner's attorney found only a copy of the order marked Exhibit H in the record books at Circuit Court Book 53 at Page 49. An examination of the original of appendix H reflects that although the original, and copy on file, (appendix H) compare in content, that lines 8 and 9 on said original appear to have been corrected with the use of correction fluid.

5.

Finally, the records reflect the following:

a. Original motion for a new trial (R. 165) of the record which was made on the date of the trial.

b. Original motion for a new trial accepted by the trial court and hearing upon to be had upon a date agreed to by counsel for all parties (R. 165).

c. Court heard and overruled motion and amended motions to set aside judgment on April 13, 1973.

d. That the written motion for a new trial filed April 18, 1973, did not render the original motion for a new trial a nullity, but only set out specific grounds in support of the original motion.

e. That the overruling of the motion for a new trial on May 11, 1973 went to the motion for a new trial made at the trial.

It is apparent from the docket that when the appeal bond was filed on June 25, 1973, that the order dismissing the appeal had not been entered although the record reflects that it was entered on June 15, 1973. Note that appeal dismissal is entered in the space above "Appeal Bond Filed." (See appendix D)

Petitioner concludes the following:

1.

That it is difficult from the examination of the record, to determine what the Circuit Court did, if anything, to dismiss this action.

2.

That if this cause was officially dismissed by the Circuit Court, that the Circuit Court had deemed that it had jurisdiction; and that the subsequent dismissal resulted from means initiated outside of court procedure, of which petitioner never received notice.[1]

3.

That because the docket book failed to reveal all of these various orders, coupled with the fact that no official notice was given petitioner's counsel of the summary dismissal, petitioner was never in a position to resist this action.

4.

That Notice of Appeal was timely given within the ten day limitation provided for by the statute, after the motion for a new trial was overruled.

5.

That the Appeal Bond was timely filed on June 25, 1973 as reflected by copy of said Appeal Bond marked in appendix D herein, although the Civil Docket reflects that said Bond was filed on July 2, 1973, in contrast with what is reflected upon the face of the Appeal Bond.

Petitioner was not sent a copy of any of these documents purporting to be a dismissal of her action, and only first learned of same from the court reporter

---

1 The trial Judge was apparently in ill health at the time of the trial and was dead before petitioner learned of the dismissal.

after petitioner's counsel made inquiry as to why there had been no completion of the transcription of her notes.

On about the 12th day of September 1975, petitioner filed a peition for Writ of Certiorari to the Circuit Court of the First Judicial District of Hinds County, Mississippi. Said petition included all of the matters and things as set forth hereinabove. Copies of said petition were timely provided the respondents' counsel.

There was no opposition to the petition at any time subsequent to the filing thereof, and prior to the decision thereupon by the Mississippi Supreme Court, granting writ of certiorari. The Mississippi Supreme Court granted Certiorari as shown in appendix K, and opposing counsel received notice thereof. No opposition by opposing counsel was filed prior to or at the time Certiorari was granted. Opposing counsel made opposition to the petition for Writ of Certiorari for the first time after the Mississippi Supreme Court had granted Certiorari.

After writ of certiorari had been granted by the Mississippi Court and the record had been sent up, petitioner was notified when her brief was due.

On the 13th day of October, 1975, while petitioner was preparing her Brief on the merits, respondents' Motions to Dismiss were sustained. Thereafter, petitioner timely filed a Motion to reinstate her cause and said Motion was overruled on December 8, 1975.

REASONS FOR GRANTING THE WRIT

The Court Below Improperly Determined That Motion For New Trial Was Not Timely Filed

At the conclusion of petitioner's case respondent moved the Court to dismiss her cause for lack of sufficient evidence to substantiate her claim. Thereupon, counsel for petitioner moved the Court for a new trial. (TR. 165)

> By the Court:
> — I feel compelled to grant the Motion. Plaintiffs can have their appeal.
>
> By Mr. Winfield:
> Your Honor, we'd like to make an oral motion for a new trial.
>
> By the Court:
> You have to set the date. I'll give you a date anytime you can agree on, of course.

On April 19, 1973, petitioner filed a written motion for a new trial. The written Motion for a new trial merely contained specific grounds in support of petitioner's original Motion for a new trial. The original Motion for a new trial was yet pending at the close of the Court term on April 13, 1973. The motion for a new trial was heard and overruled on May 11, 1973, as being without merit. No question was raised as to the jurisdiction of the trial Court to hear the motion and to rule on its merits. Notice of appeal and bond were timely filed thereafter.

The Judgment Was Not Final Until Motion For A New Trial Was Overruled

The motion for a new trial which was timely filed at the trial, was yet pending at the conclusion of the trial Court term on April 13, 1973. Therefore, the trial Court had jurisdiction and its judgment overruling same on May 11, 1973, was the final judgment of the trial Court. Therefore, the Notice of Appeal and bond were likewise timely. This was the same argument raised by petitioner on her Petition for Writ of Certiorari to the Mississippi Supreme Court and the writ was granted. The respondent only challenged the granting of the writ after it had been granted by the Supreme Court of Mississippi.

It is not necessary to make a Motion for a New Trial to obtain a review of judgment in the Mississippi Supreme Court. It was not made on grounds which would set aside or modify judgment and could not be otherwise considered by the Court. Judgment is not final until the trial Court disposes of Complainant's Motion for a New Trial if timely made. Petitioner submits that based upon the above premises her Motion for a New Trial was timely made. *Moore v. Montgomery Ward & Co.*, 156 So. 875; *Johnson v. Mississippi Power Co.*, 189 M, 196 So. 642.

SUMMARY AND CONCLUSION

This Court should issue a writ of certiorari and determine whether the denial of petitioner's appeal deprived her of due process of law, trial by jury, guaranteed by the Seventh Amendment to the United

Barnett, while extremely indiscreet, probably some of which was entirely unnecessary, I don't think it rises to the height of a suit whereby he could be assessed fifty thousand dollars in damages. I see no evidence of any malice or prosecution. Many things a more prudent person would not have done, but as to whether or not it constitutes an actionable wrong would be another question.

In connection with that fact, and the fact that the declaration is duplicitous or bordering thereon, I feel compelled to grant the motion. Plaintiffs can have their appeal.

BY MR. WINFIELD:

Your Honor, we'd like to make an oral motion for a new trial.

BY THE COURT:

You have to set the date. I'll give you a date any time you can agree on, of course.

Let the jury come in.

[166] BY MR. GORE:

If the Court please, one minute. That applies to Gant, too? That applies to both defendants?

BY THE COURT:

Oh, yes.

(TRIAL WAS THUS CONCLUDED.)

APPENDIX B

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

MRS. RUBY EDWARDS BROWN,
Plaintiff,

versus No. 20,907

ROSS R. BARNETT, JR., AND
LOWELL B. GANT,
Defendants.

FINAL JUDGMENT

This cause came on for trial in open Court on March 21-22, 1973, and the plaintiff, having rested her case, the defendants, Ross R. Barnett, Jr., and Lowell B. Gant, moved the Court for an order excluding the evidence and directing a verdict in their favor; and the Court, having considered the pleadings, having heard the evidence of plaintiff in support of her declaration, having heard the argument and authorities of all parties, and being fully advised in the premises, finds that the motion of said defendants is well taken and should be and the same is hereby sustained.

The Court, therefore, hereby finds for the defendants, Ross R. Barnett, Jr., and Lowell B. Gant, and the cause of action filed and sought to be maintained

against them herein is hereby dismissed with prejudice, forever, at the cost of the plaintiff.

SO ORDERED AND ADJUDGED on this 26th day of March, 1973.

/s/ M. M. McGOWAN
CIRCUIT JUDGE

ATTEST A TRUE COPY
This 26th day of March, 1973.
WM. E. "BILL" McKINLEY,
Circuit Clerk
/s/ VIRGINIA SAWAY, D.C.

APPENDIX C

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL DISTRICT OF HINDS
COUNTY, MISSISSIPPI

MRS. RUBY EDWARDS BROWN,
Plaintiff,

versus No. 20,907

ROSS R. BARNETT, JR., AND
LOWELL B. GANT,
Defendants.

ORDER OVERRULING MOTIONS

This cause came on this date for hearing upon the plaintiff's motion to set aside final judgment and plaintiff's amended motion to set aside final judgment and to enter corrected final judgment, and the Court, having heard the argument of counsel and the authorities presented and being in all respects fully advised in the premises, finds that said motions are not well taken and ought to be and same are hereby overruled.

It is, therefore, the finding and order of the Court that said motions be and the same are hereby overruled.

SO ORDERED AND ADJUDGED this the 13th day of April, 1973.

/s/ M. M. McGOWAN
CIRCUIT JUDGE

General Docket, Civil Cases, First Distr. Hinds County

Circuit Court — Appendix Exhibit D

No. 20907

Mrs. Ruby Edwards Brown (PLAINTIFF) v. Rose B. Russell et al (DEFENDANTS)

D. Jess Brown (ATTORNEYS) — W. L. Mize (ATTORNEYS)

Date of Filing Papers Month	Day	Year	PLEADINGS, EXHIBITS, ORDERS FILED, DISPOSITIONS, ETC.
2	10	72	DECLARATION & 1 COPIES FILE, SUMMONS ISSUED 1 dft Hinds 1 dft Rankin Clerk Fee
2	10	72	$15.00 Advance cost
3	1	72	Summons ret. Served pr. mil law
4	22	72	Summons ret executed Sent Sheff. Rankin Co.
5	3	72	Answer filed
10	9	72	Defendants Professions filed
10	10	72	Motion to Strike filed
10	10	72	" " " "
1	9	73	Copy of letter from atty filed
3	6	73	4 cert copies 2nd
3	26	73	Motion to transfer Docket ambiguous - Dismissed cost Plaintiff 52-69
3	29	73	Motion to Set Aside final Judgment filed
4	4	73	Entered Motion to Set aside final Judgment filed
4	5	73	Cost Bill agnst $50.55 # 44430
4	13	73	4 cert copies 2nd
4	13	73	Motion for Amended motion to set aside Judgment Overruled 5
4	19	73	Motion for New Trial filed
5	11	73	Motion for New Trial Overruled 5
5	11	73	notice of appeal
5	18	73	copy notice of appeal & Motion - note
5	21	73	Notice of Appeal etc filed 53-49 & 1 copy
9	12	73	Appeal Bond Dismissed
9	12	73	Appeal Bond filed

No. 20908

Tempie Adams (PLAINTIFFS) v. Jackson Transit Corp (DEFENDANTS)

L. Breland Wilbourn (ATTORNEYS) — John B. Clark (ATTORNEYS)

Date of Filing Papers Month	Day	Year	PLEADINGS, EXHIBITS, ORDERS FILED, DISPOSITIONS, ETC.
2	10	72	DECLARATION & 1 COPIES FILED, SUMMONS ISSUED
2	10	72	$10.00 Advance Cost
2	11	72	Summons on Def
5	28	72	Answer filed
6	30	72	Interrogatories filed
1	8	73	Dismissed Cost Def.
1	12	73	Cost paid $14.65 # 13568
1	12	73	Refund Advance cost $10.00

APPENDIX E

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL DISTRICT
HINDS COUNTY, MISSISSIPPI

MRS. RUBY EDWARDS BROWN
Plaintiff

versus No. 20,907

ROSS R. BARNETT, JR. et al
Defendants

ORDER Overruling Motion For New Trial

This cause came on to be heard upon plaintiff's motion for new trial; and the Court having considered same, it is the opinion of this Court that said motion should be, and it is hereby overruled.

ORDERED and ADJUDGED this the 11th day of May, 1973.

M. M. McGOWAN
CIRCUIT JUDGE

ATTEST A TRUE COPY
This 11 day of May 1973
WM. E. "BILL" McKINLEY, Circuit Clerk
/s/ MATTIE HAWKINS, D.C.
[SEAL]

APPENDIX F

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL DISTRICT
HINDS COUNTY, MISSISSIPPI

MRS. RUBY EDWARDS BROWN
Plaintiff

versus No. 20,907

ROSS R. BARNETT, JR., et al
Defendants

APPEAL BOND

THE STATE OF MISSISSIPPI
COUNTY OF HINDS

KNOW ALL MEN BY THESE PRESENTS, That We, Mrs. Ruby Edwards Brown, as Principal, and the undersigned Sureties, residents of the State, are held firmly bound unto the State of Mississippi in the penal sum of Five Hundred ($500.00) Dollars for which payment well and truly to be made, We, jointly and severally bind ourselves, our heirs, executors, administrators and successors forever.

The condition of the foregoing obligation is such that whereas, a judgment was rendered against Mrs. Ruby Edwards Brown and in favor of Ross R. Barnett, Jr. at the March term of this Court on the ____ day of

_____, 1973, and the said Mrs. Ruby Edwards Brown, feeling aggrieved by said judgment, has prayed and obtained an appeal to the Mississippi Supreme Court. Now if the said Mrs. Ruby Edwards Brown shall prosecute her appeal with effect and shall pay all costs, if the same be affirmed; then this obligation to be void; otherwise to remain in full force and effect.

Given under our hands this 25th day of June, 1973.

/s/ MRS. RUBY EDWARDS BROWN
PRINCIPAL
THE TRAVELERS INDEMNITY COMPANY
/s/ THETIS T. MEAGHER
Thetis T. Meagher SURETIES

The foregoing bond approved this ____ day of _____, 1973.

_____

_____ CLERK

ATTEST A TRUE COPY
This 19 day of May 1975
Wm. E. "BILL" McKINLEY, Circuit Clerk
/s/ ILLEGIBLE, D.C.

THE TRAVELERS INDEMNITY COMPANY
Hartford, Connecticut

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That THE TRAVELERS INDEMNITY COMPANY, a corporation of the State of Connecticut, does hereby make, constitute and appoint Wirt A. Yerger, Wirt A. Yerger, Jr., Thomas L. Joyner, Jr., Thetis T. Meagher, all of Jackson, Mississippi, EACH its true and lawful Attorney(s)-in-Fact, with full power and authority, for and on behalf of the Company as surety, to execute and deliver and affix the seal of the Company thereto, if a seal is required, bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof, as follows:

> Any and all bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof —

and to bind THE TRAVELERS INDEMNITY COMPANY thereby, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This appointment is made under and by authority of the following by-laws of the Company which by-laws are now in full force and effect:

ARTICLE IV, SECTION 13. The Chairman of the Board, the President, the Chairman of the Finance Committee, the Chairman of the Insurance Executive Committee, any Senior Vice President, any Vice President, any Second Vice President, any Secretary or any Department Secretary may appoint attorneys-in-fact or agents with power and authority, as defined or limited in their respective powers of attorney, for and on behalf of the Company to execute and deliver, and affix the seal of the Company thereto, bonds, undertakings, recognizances, consents of surety or other written obligations in the nature thereof and any of said officers may remove any such attorney-in-fact or agent and revoke the power and authority given to him.

ARTICLE IV, SECTION 15. Any bond, undertaking, recognizance, consent of surety or written obligation in the nature thereof shall be valid and binding upon the Company when signed by the Chairman of the Board, the President, the Chairman of the Finance Committee, the Chairman of the Insurance Executive Committee, any Senior Vice President, any Vice President or any Second Vice President and duly attested and sealed, if a seal is required, by any Secretary or any Department Secretary or any Assistant Secretary or when signed by the Chairman of the Board, the President, the Chairman of the Finance Committee, the Chairman of the Insurance Executive Committee, any Senior Vice President, any Vice President or any Second Vice Presi-

dent and countersigned and sealed, if a seal is required, by a duly authorized attorney-in-fact or agent; and any such bond, undertaking, recognizance, consent of surety or written obligation in the nature thereof shall be valid and binding upon the Company when duly executed and sealed, if a seal is required, by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority granted by his or their power or powers of attorney.

This power of attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Directors of THE TRAVELERS INDEMNITY COMPANY at a meeting duly called and held on the 30th day of November, 1959:

VOTED: That the signature of any officer authorized by the By-Laws and the Company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond, undertaking, recognizance or other written obligation in the nature thereof; such signature and seal, when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect a though manually affixed.

This power of Attorney revokes that dated March 5, 1969 on behalf of Wirt A. Yerger, Wirt

A. Yerger, Jr., Thomas L. Joyner, Jr., Thetis T. Meagher

IN WITNESS WHEREOF, THE TRAVELERS INDEMNITY COMPANY has caused these presents to be signed by its proper officer and its corporate seal to be hereunto affixed this 27th day of September 1971.

THE TRAVELERS INDEMNITY COMPANY
/s/ E. A. HOUSER, III
Secretary, Surety

(SEAL)

State of Connecticut, County of Hartford — ss:

On this 27th day of September in the year 1971 before me personally came E. A. Houser III to me known, who being by me duly sworn, did depose and say: that he resides in the State of Connecticut; that he is Secretary (Surety) of THE TRAVELERS INDEMNITY COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of his office under the by-laws of said corporation, and that he signed his name thereto by like authority.

/s/ RUTH H. SOMERVILLE
Notary Public

(SEAL)
My commission expires April 1, 1974

CERTIFICATION

I, D. J. Nash, Assistant Secretary (Surety) of THE TRAVELERS INDEMNITY COMPANY certify that the foregoing power of attorney, the above quoted Sections 13. and 15. of Article IV of the By-Laws and the Resolution of the Board of Directors of November 30, 1959 have not been abridged or revoked and are now in full force and effect.

Signed and Sealed at Hartford, Connecticut, this 25th day of June 1973.

/s/ D. J. NASH
Assistant Secretary, Surety

(SEAL)
ATTEST A TRUE COPY
This 19 day of May 1975
WM. E. "BILL" McKINLEY, Circuit
/s/ J. RANDALL

APPENDIX G

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

MRS. RUBY EDWARDS BROWN
Plaintiff

versus No. 20,907

ROSS R. BARNETT, JR., AND LOWELL B. GANT
Defendants

ORDER

The Court of its own volition, takes judicial notice that Plaintiff filed a Motion for New Trial and a Notice of Appeal in this cause after the Minutes were closed on April 13, 1973 which ended the term of Court in which Final Judgment of Dismissal had been entered; and the Court takes judicial notice that the Motion for New Trial and Notice of Appeal are each a nullity and same are hereby striken from the record.

SO ORDERED AND ADJUDGED this the 15th day of June, 1973.

/s/ M. M. McGOWAN
CIRCUIT JUDGE

APPENDIX H

MRS. RUBY EDWARDS BROWN
Plaintiff

versus No. 20,907

ROSS R. BARNETT, JR., AND LOWELL B. GANT
Defendants

ORDER

The Court, of its own volition, takes judicial notice that Plaintiff filed a Motion for New Trial and a Notice of Appeal in this cause after the Minutes were closed on April 13, 1973 which ended the term of Court in which Final Judgment of Dismissal had been entered; and the Court takes judicial notice that the Motions for New Trial and Notice of Appeal and Notice to the Court Reporter and all other pleas filed by Mrs. Ruby Edwards Brown since the adjournment of the term of Court to which said cause was tried, all a nullity and the same are hereby stricken from the record.

SO ORDERED AND ADJUDGED this the 15th day of June, 1973.

/s/ M. M. McGOWAN
CIRCUIT JUDGE

Ordered that all pending motions and appeals be and are hereby carried over for hearing and decision in vacation.

ORDERED AND ADJUDGED THAT COURT DO NOW ADJOURN UNTIL COURT IN COURSE.

/s/ LEON F. HENDRICK
Judge Circuit Court
/s/ RUSSELL W. MOORE
Judge Circuit Court

ATTEST A TRUE COPY
This 17 of December 1973
WM. E. "BILL" McKINLEY, Circuit Clerk
/s/ ANNA BARLEEN, D.C.

APPENDIX I

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

MRS. RUBY EDWARDS BROWN
PLAINTIFF

versus No. 20,907

ROSS R. BARNETT, JR., AND LOWELL B. GANT
DEFENDANTS

ORDER

The Court, of its own volition, takes judicial notice that Plaintiff filed a Motion for New Trial and a Notice of Appeal in this cause after the Minutes were closed

on April 13, 1973 which ended the term of Court in which Final Judgment of Dismissal had been entered; and the Court takes judicial notice that the Motions for a New Trial and Notices of Appeal and Notice to the Court Reporter and all other pleas filed by Mrs. Ruby Edwards Brown since the adjournment of the term of Court to which said cause was tried, all a nullity and the same are hereby stricken from the record.

SO ORDERED AND ADJUDGED this the 15 day of June, 1973.

/s/ M. M. McGOWAN
CIRCUIT JUDGE

This order to be entered per Ross Barnett

APPENDIX J

IN THE SUPREME COURT OF MISSISSIPPI

MONDAY, OCTOBER 13, 1975, COURT SITTING:

MRS. RUBY EDWARDS BROWN

#48,960 VS

ROSS R. BARNETT, JR. AND
LOWELL B. GANT

This cause this day came on to be heard on Suggestion for Diminution of Record and Motion to Dismiss filed herein and this Court having sufficiently examined and considered the same En Banc and being of

the opinion that the same should be denied as to the Suggestion for Diminution of Record and sustained as to the Motion to Dismiss Appeal doth order that said Suggestion for Diminution of Record be denied and the Motion to Dismiss Appeal be and the same is hereby sustained and the Appeal is dismissed. It is further ordered and adjudged that the appellant and The Travelers Indemnity Company, sureties on the appeal bond herein, do pay all of the costs of this appeal to be taxed for which let proper process issue.

MINUTE BOOK "BR" PAGE 247

(SEAL)

ATTEST
A TRUE COPY
This the 26th day of Feb. 1976
JULIA H. KENDRICK, CLERK
SUPREME COURT OF MISSISSIPPI
/s/ M. LEE

APPENDIX K

IN THE SUPREME COURT OF MISSISSIPPI

MONDAY, JUNE 30, 1975, COURT SITTING:

MRS. RUBY EDWARDS BROWN

Misc. 553 Vs.

WILLIAM MCKINLEY, CLERK

This cause this day came on to be heard on Petition for Writ of Certiorari, filed herein, and this Court hav-

ing sufficiently examined and considered the same, and being of the opinion that the same should be granted; Therefore, this Court doth order that said petition be and the same is hereby granted and the Clerk of this Court is directed to issue the Writ of Certiorari directed to the Circuit Clerk of Hinds County, Mississippi, commanding him to send up to this Court instanter the complete record in this cause.

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(SEAL)

APPENDIX L

IN THE SUPREME COURT OF MISSISSIPPI

MONDAY, DECEMBER 8, 1975, COURT SITTING:

MRS. RUBY EDWARDS BROWN

#48,960 Vs.

ROSS R. BARNETT, JR., ET AL

This cause this day came on to be heard on Motion to Reinstate filed herein and this Court having sufficiently examined and considered the same and being of the opinion that the same should be overruled doth order that said Motion be and the same is hereby overruled.

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(SEAL)